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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 TRACI HOUSE,

7 Plaintiff,

8 v.

9 STATE PUBLIC CHARTER SCHOOL
AUTHORITY,

10 Defendant.

Case No. 2:17-cv-03086-MMD-VCF

ORDER

11
12 **I. SUMMARY**

13 This is an employment discrimination case arising under the Age Discrimination in
14 Employment Act (“ADEA”), 29 U.S.C. § 623. Before the Court is Defendant State of
15 Nevada *ex rel.* State Public Charter School Authority’s motion to dismiss (ECF No. 11).
16 The Court has reviewed Plaintiff Traci House’s response (ECF No. 14) and Defendant’s
17 reply (ECF No. 17). The Court grants Defendant’s motion to dismiss because Plaintiff has
18 failed to properly serve Defendant.

19 **II. DISCUSSION**

20 Plaintiff does not dispute that Defendant State Public Charter School Authority is a
21 state-created governmental organization. Accordingly, it must be served by delivering a
22 copy of the summons and complaint to its chief executive officer or in the manner
23 prescribed by Nevada law. See Fed. R. Civ. P. 4(j)(2). Under Nevada law, a copy of the
24 summons and complaint must be served upon the Attorney General (or his or her
25 designate) as well as “the person serving in the office of administrative head of the named
26 agency.” NRS § 41.031(2).

27 Plaintiff concedes that she has not served Defendant’s administrative head—
28 Patrick Gavin. (ECF No. 14 at 2.) Plaintiff argues that she has diligently pursued service,

1 however, by attempting to serve Mr. Gavin on six occasions in February 2018. (*Id.* at 3.)
2 On that basis, Plaintiff requests an extension of time to August 15, 2018, to serve Mr.
3 Gavin. (*Id.*)

4 To date, Plaintiff has not filed proof of service as to Mr. Gavin, even though Plaintiff
5 has had more than two additional months from the date of her requested extension of time
6 to file such proof of service. Moreover, Plaintiff has not represented to the Court that she
7 attempted to serve Mr. Gavin after the failed attempts in February 2018. Accordingly, the
8 Court will dismiss this action without prejudice. See Fed. R. Civ. P. 4(m) ("If a defendant
9 is not served within 90 days after the complaint is filed, the court—on motion or on its own
10 after notice to the plaintiff—must dismiss the action without prejudice against that
11 defendant or order that service be made within a specified time.")

12 **III. CONCLUSION**

13 The Court notes that the parties made several arguments and cited to several cases
14 not discussed above. The Court has reviewed these arguments and cases and determines
15 that they do not warrant discussion as they do not affect the outcome of the motion before
16 the Court.

17 It is therefore ordered that Defendant's motion to dismiss (ECF No. 11) is granted.
18 This case is dismissed without prejudice. The Clerk of the Court is instructed to close this
19 case.

20 DATED THIS 28th day of November 2018.

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23 MIRANDA M. DU
24 UNITED STATES DISTRICT JUDGE
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